

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Present:

1. Shri J.L. Bajaj, Chairman
2. Shri S.C. Dhingra, Member
3. Shri Arun Sarkar, Member

In the matter of:

Power consumption Limit during peak hours

And

In the matter of:

M/s Orient Ceremics & Industries Ltd. Bulandshar
Represented by Shri. M.K. Kataria, Manager and Shri Vishal Dikshit, Advocate.

---Petitioner

And

U.P. Power Corporation Ltd., Lucknow
Represented by Sri Pushpendra Kumar EE, Sri S.P.Singh EE, UPPCL
and Sri. D.D Chopra, Advocate

----Respondents

Lucknow

Date: 27th January, 2003

ORDER

M/s Orient Ceremics & Industries Ltd. Bulandshar Vs UPPCL

- M/s Orient Ceramics & Industries Ltd., Bulandshahar (the Petitioner) is an electricity consumer of UP Power Corporation Ltd. (the Respondents) of 1200 KVA load since March 1994. The supply has been released through 33 KV independent feeder emanating from 132 KV Grid Sub-Station. From 1st April 1995, UPPCL agreed to supply a protective load of 200 KVA against the contracted load of 1200 KVA. The petitioner vide letter No. OC:SKD:EVP:UPPCL:04-616 dated 20th June 2001 requested the respondents for changing his status from continuous industry to non-continuous industry. The respondents vide office memorandum No. 5997/EDD-I/BSR dated 18th July 2001 acceded to the request of the petitioner. The petitioner again requested the respondents vide letter No. OC/SKG/UPPCL/00/1043 dated 18th September 2002 for changing his status from non-continuous industry to continuous industry. The respondents vide office memorandum No. 11340/EDD-I/BSR dated 25th September 2002 again approved the request of the petitioner.
2. During the period from 18th July 2001 to 24th September 2002 when the petitioner was under the category of non-continuous industry, the respondents have raised penalty bills against the petitioner for using electricity supply exceeding the limit of 180 KVA (15% of 1200 KVA) during peak hours. This penalty was levied by the respondents on the basis of the reading taken by MRI (Meter Reading Instrument). The petitioner represented the matter to the officials of UPPCL stating that he was entitled to utilize 380 KVA (200 KVA protective load + 15 % of 1200 KVA) and not 180 KVA as calculated by UPPCL, during peak hours, as

protective load of 200 KVA had also been sanctioned to him. The respondents rejected the representation of the petitioner and confirmed the earlier order. Aggrieved by the decision of the respondents, the petitioner has filed this petition under clause 7.26 & 7.29 of the Electricity Supply Code- 2002.

3. The petitioner has submitted that as per clause 4.59 of the Electricity Supply Code-2002 protective load is not subject to any emergency cut or rostering of power supply. As the petitioner is paying extra charge for 200 KVA protective load, he can also use the load during peak hours. Note d) of the Rate Schedule for HV-2 category consumers effective from 16th September 2001 states, “ Consumers who do not opt for supply during peak hours/restricted hours shall be allowed to use the power not more than 15% of their contracted demand. In case of use of excess power over 15% during restricted hours for such consumers a penalty of Rs.75 per KVA of contracted load for the number of occurrence of default shall be levied. In the month of default, the consumer shall be billed at the rates specified for consumers having unrestricted supply in addition to the penalty.” The petitioner has submitted that no peak hour penalty should be charged from him as he had use less than 380 KVA (200 KVA protective load + 15 % of 1200 KVA) load during peak hours.
4. The respondents have submitted that the Code has come into force w.e.f.1st July 2002 while protective load was sanctioned to the petitioner in 1995. Therefore, the petitioner is governed by the provisions of the rate schedules applicable from 16th July 1994. The counsel for the respondents argued that a non-continuous industry couldn't use protective load during peak hours, as protective load cannot be sanctioned to a non-continuous industry. In the counter affidavit filed by the respondents, it has been stated,” That the consumer is liable for penalty for peak hour violation so long it continues to be under non-continuous industry. It would have been a different story had the consumer continued to remain under continuous industry in which case no penalty for peak hour violation would have been

levied on it. It is still possible to drop penalty if petitioner pays for continuous industry w.e.f 18-7-01”.

5. In the rejoinder affidavit, the petitioner has admitted, “So far legal situation is concern, non-continuous industries cannot get protective load, it is admitted but it was on the part of UPPCL on 18-7-2001 the appellant industry was converted into non-continuous industry but nothing was replied for protective load subsequently charges were called for protective load hence admittedly appellant was entitled for protective load.” The petitioner has also submitted that peak hour violation bills of August & September 2001, April 2002 and of May 2002 were served to the petitioner in June 2002, September 2002 and in September 2002 respectively. Had the first violation bill of August & September 2001 been sent to the petitioner in September or October 2001, the petitioner would have taken precautions and avoided the peak hour violation in future.

6. The issue in the case is whether the petitioner can utilize electric power against 200 KVA protective load during peak hours while paying tariff applicable to non-continuous industry. Clause 13 of the rate schedule applicable from 16th July 1994 deals with protective load. Its relevant sub-clauses are reproduced below.

“(i) Applicability:

This will apply to continuous process consumers in exceptional circumstances as decided by the board.-----

(iii) Other Provisions:

(a) This protective load shall not be subject to any emergency rostering.---

(c) Protective load can also be utilized for lights and fans and drinking water purposes.

(d) A consumer availing the facility of protective load shall, however, be subjected to scheduled power cut imposed by State Govt./or Board from time to time. During the period of scheduled power cut the protective load shall not exceed the permissible load under relevant power cut orders. “

7. The Supply Code came into force w..e.f 1st July 2002 and as the period of dispute is from 18th July 2001 to 24th September 2002, therefore, the

provisions of the Code are also relevant. Clause 4.59 of the Code states, “The Licensee may grant protective load in exceptional cases to those consumers, who have opted for use of power during restricted hours”. It is clear from tariff schedule applicable at the time when the load was sanctioned and from the Code that protective load is not available to a non-continuous category industry. The petitioner has also accepted this in the rejoinder affidavit. UPPCL should not have permitted the petitioner to change the status from continuous to non-continuous as the petitioner was having protective load or should have cancelled the protective load. To rectify the mistake, the respondents in the counter affidavit have offered to the petitioner to opt for continuous industry status from 18th July 2001 to 24th September 2002 (the petitioner has already opted and approved by UPPCL continuous industry status to the petitioner w.e.f. 25th September 2002). Once the petitioner falls in the continuous industry category the issue of peak hour violation will no longer be valid.

8. During arguments the counsel of the petitioner Sri. Vishal Dikshit conceded that the facility of protective load was available only to a non-continuous industry. Therefore, it is logical that an oversight or a mistake on the part of the officer in not canceling the protective load when the respondents changed his status from continuous to non-continuous industry does not entitle the petitioner to draw power during peak hours. This is especially so as the tariff schedule applicable at the time protective load was sanctioned as well as the Supply Code confirms this position.
9. Further, the petitioner’s counsel accepted the offer of the respondents on behalf of his client that if the petitioner paid for the period from 18th July 2001 to 24th September 2002 at rates applicable to continuous industry then no peak hour violation would be recovered from him. In view of the statement of the petitioner’s counsel that the petitioner accepts the offer of the respondents, the Commission directs the petitioner to pay electricity charges from 18th July 2001 to 24th September 2002, at rates charged from a continuous industry. Consequently no peak hour violation penalty

shall be recovered from the petitioner. The due payment be paid within two weeks from the date the revised bill is issued by UPPCL.

(Arun Sarkar)
Member

(S.C Dhingra)
Member

(J.L Bajaj)
Chairman

Lucknow
27th January 2003